

Notice of Allowability	Application No.	Applicant(s)	
	10/667,776	SU ET AL.	
	Examiner	Art Unit	
	Young J. Kim	1637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment received on August 19, 2005.
2. ☒ The allowed claim(s) is/are 1-10 and 31-33.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>11/1/05</u> |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The rejection of claims 1-9 and 31-33 under 35 U.S.C. 102(b) as being anticipated by Thundat (U.S. Patent No. 6,016,686, issued January 25, 2000) as evidenced by Cima et al. (US 2002/0048610 A1, April 25, 2002, filed January 8, 2001), made in the Office Action mailed on May 17, 2005 is withdrawn in view of the arguments presented in the Amendment received on August 19, 2005, arguing that Cima et al. reference fails to evidence that the piezoresistive detector (employed by Thundat) involves imposing a counterbalancing force to restore the cantilever to its original position, but rather bobs up and down with the contours of the surface," (*see* page 12, Response).

Claim Rejections - 35 USC § 103

The rejection of claim 10 under 35 U.S.C. 103(a) as being unpatentable over Thundat (U.S. Patent No. 6,016,686, issued January 25, 2000) in view of Binning et al. (U.S. Patent No. 6,079,255, issued June 27, 2000), made in the Office Action mailed on May 17, 2005 is withdrawn as Thundat reference fails to serve as a proper primary reference against at least its parent claim 1.

Double Patenting

The provisional rejection of claims 1-10 and 31-33 under 35 U.S.C. 101 as claiming the same invention as that of claims 1-10 and 31-34 of copending Application No. 10/254,201 (herein the '201 application), made in the Office Action mailed on May 17, 2005 is withdrawn as claims 1-10 and 31-33 of the '201 application has been canceled. With regard to claim 34 of the '201 application, it appears that the claim was included by mistake as the claim is drawn to an apparatus rendering double patenting rejection not applicable.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Lisa Hail on November 1, 2005.

The application has been amended as follows:

In the Claims:

In claim 1, after the phrase, "attaching the probe molecules to one or more cantilevers," the phrase, "having an original position" has been added.

In claim 31, after the phrase, "attaching one or more target analytes to one or more cantilevers," the phrase, "having an original position" has been added.

Reasons for allowance

The following is an examiner's statement of reasons for allowance: The prior art neither teaches nor suggests a method of detecting a target analyte involving a cantilever, wherein the deflection of the cantilever is produced when target-probe interaction occurs, wherein the actual detection is accomplished by imposing a counterbalancing force to restore and maintain the cantilever at its original position.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

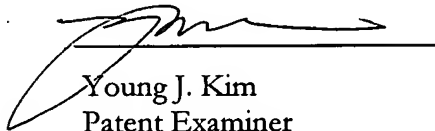
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Inquiries

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Young J. Kim whose telephone number is (571) 272-0785. The Examiner is on flex-time schedule and can best be reached from 8:30 a.m. to 4:30 p.m. The Examiner can also be reached via e-mail to Young.Kim@uspto.gov. However, the office cannot guarantee security through the e-mail system nor should official papers be transmitted through this route.

If attempts to reach the Examiner by telephone are unsuccessful, the Primary Examiner in charge of the prosecution, Dr. Kenneth Horlick, can be reached at (571) 272-0784. If the attempts to reach the above Examiners are unsuccessful, the Examiner's supervisor, Dr. Gary Benzion, can be reached at (571) 272-0782.

Papers related to this application may be submitted to Art Unit 1637 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 CFR 1.6(d)). NOTE: If applicant does submit a paper by FAX, the original copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED, so as to avoid the processing of duplicate papers in the Office. All official documents must be sent to the Official Tech Center Fax number: (571) 273-8300. For Unofficial documents, faxes can be sent directly to the Examiner at (571) 273-0785. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1600.



Young J. Kim
Patent Examiner
Art Unit 1637
11/1/2005

**YOUNG J. KIM
PATENT EXAMINER**

yjk